
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Inventor: Vladimir Kliatzkin
Assignee: Unibatt Ltd.
Serial No.: 10/070,501 Confirm No.: 7024
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Examiner: Raymond Alejandro Group: 1745
Atty Docket: 468/1
Title: Chargeable Electrochemical Cell

AMENDMENT AND RESPONSE

This paper is in response to the final Office Action mailed December 9, 2005. Simultaneously herewith, Applicant has requested a one month extension of time.

Applicant objects to the piecemeal examination of the application. A careful review of the application and each of the responses will establish that Applicant has consistently defined the invention and has not changed the definition of the invention. It is improper under the PTO rules for the Examiner to do a new search each time Applicant overcomes a prior art rejection.

“The goal of examination is to clearly articulate any rejection early in the prosecution process so that the applicant has the opportunity to provide evidence of patentability and otherwise reply completely at the earliest opportunity.” (MPEP ¶ 706).

“Under present practice, second or any subsequent actions on the merits shall be final, except where the examiner introduces a new ground of rejection that is neither necessitated by applicant's amendment of the claims nor based on information submitted in an information disclosure statement.” (MPEP ¶ 706.07(a))

The November 2, 2005 Response may have included an amendment to the claims, but it was merely to clarify and confirm that the scope of the claim was consistent with Applicant's heretofore presented arguments. It did not constitute a new definition of the claim.

In the Final Rejection a new prior art reference is cited improperly as it was not necessitated by the amendment to the claims. Thus, the office action should not have been a "final" action. Applicant has been denied an opportunity to respond to a prior art rejection that was not caused by its amendment of the claims.

"a second or any subsequent action on the merits in any application ... will not be made final if it includes a rejection, on newly cited art, other than information submitted in an information disclosure statement ... of any claim not amended by applicant ... in spite of the fact that other claims may have been amended to require newly cited art ... **A second or any subsequent action on the merits in any application ... should not be made final if it includes a rejection, on prior art not of record, of any claim amended to include limitations which should reasonably have been expected to be claimed** " (emphasis added) (MPEP 706.07(a))